REMARKS

Restriction Requirement and Election

The Patent Office has set forth a restriction requirement. Applicants elect, with traverse, the claims of Group 1 (i.e., 1-3, 4 (in part), and 5-8), drawn to a method of diagnosing breast cancer in a patient using an antibody to the catalytic subunit of ECPKA. Reconsideration of the restriction requirement is respectfully requested.

Discussion of the Restriction Requirement

The subject application is a U.S. national stage application based on the international application PCT/US00/16628. The Office Action alleges that the inventions defined by the claims of Groups 1-31 do not relate to a single general inventive concept under PCT Rule 13.2. Under PCT Rule 13.2, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. PCT Rule 13.2 defines the term "special technical features" as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art (see M.P.E.P. § 1893.03(d))

Applicants respectfully submit that the Restriction Requirement severing Groups 1-31 is improper because the pending claims of the present invention are linked so as to form a single general inventive concept. In this respect, all of the pending claims involve the ECPKA protein and cancer. Moreover, a search for prior art with respect to any one of the groups would likely uncover references that would be considered by the Examiner during the examination of the other groups.

In addition, there would appear to be sufficient similarity as between at least the claims of Groups 1-7 and Groups 16-22 to allow for the search and examination of all of the claims of Groups 1-7 and 16-22 at the same time without a serious burden being placed on the Examiner. In this respect, all of the claims of Groups 1-7 and 16-22 require assaying a sample from a patient for the presence of ECPKA using an ELISA assay involving an antibody to the catalytic subunit of ECPKA.

Similarly, there would appear to be sufficient similarity as between at least the claims of Groups 8-14 and Groups 23-29 (which appear to be incorrectly numbered as Groups 16-22 in the Office Action) to allow for the search and examination of all of the claims of Groups 8-14 and Groups 23-29 at the same time without a serious burden being placed on the Examiner. In this respect, all of the claims of Groups 8-14 and 23-39 require assaying a

sample from a patient for the presence of ECPKA using an ELISA assay involving an antibody to the regulatory subunit of ECPKA.

Applicants, therefore, respectfully request withdrawal of the restriction requirement in whole or in part (i.e., withdrawal of the restriction requirement as between the claims of Groups 1-7 and Groups 16-22 and/or as between the claims of Groups 8-14 and Groups 23-29).

Conclusion

The application is considered in good and proper form for allowance, and the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned agent.

Respectfully submitted,

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